

43625353

THE ILLINOIS SECURITIES LAW.

- | | |
|--|---|
| <p>§ 1. Name of law.</p> <p>§ 2. Words and phrases defined.</p> <p>§ 3. Division and classification of securities.</p> <p>§ 4. Class "A" securities defined—not subject to provisions of Act.</p> <p>§ 5. Class "B" securities or exempted sales defined.</p> <p>§ 6. Class "C" securities defined.</p> <p>§ 7. Class "C" securities—statement—preliminary approval—bond and regulations relating to sales.</p> <p>§ 8. Class "D" securities defined.</p> <p>§ 9. Statements to be filed relative to Class "D" securities—detail of information required—irrevocable contract for issuer to receive at least 80% of proceeds of sale—summary statements—information verified by officers of issuer.</p> <p>§ 10. Class "D" securities—inventory and appraisement—Secretary of State may designate appraiser—qualifications of appraisers.</p> <p>§ 11. Examination by certified public accountant—compensation—investigation by Secretary of State—when capital to be held intact—may require bond and financial statements.</p> <p>§ 12. Stock issued or to be issued for intangible property to be placed in escrow.</p> <p>§ 13. Qualification of solicitors, agents or brokers offering securities of issuer.</p> <p>§ 14. Dealer may sell Class "D" securities which have qualified by submitting statement of amount, description and price of securities—qualification, experience, etc. of dealer.</p> <p>§ 15. Twenty-five copies of summary of Class "D" securities to be deposited with Secretary of State—caption of summary.</p> <p>§ 16. Issuers and individuals to file irrevocable consents to service of process.</p> | <p>§ 17. Secretary of State to examine statements—may refuse to file—may propound interrogatories.</p> <p>§ 18. Circuit Court of Sangamon County given jurisdiction to review actions of Secretary of State with right of appeal by either party.</p> <p>§ 19. Inducements made to procure filing to be reduced to writing.</p> <p>§ 20. Supplemental statements to be filed.</p> <p>§ 21. Every advertisement to bear a caption—copy of advertisement to be filed with Secretary of State within ten days of issue—no reference to be made concerning compliance with Act.</p> <p>§ 22. Secretary of State to mail copy of summary statements to any one requesting same.</p> <p>§ 23. Secretary of State may prescribe and furnish forms.</p> <p>§ 24. Injunctions to prevent sales—and to enforce provisions of the Act—power of Secretary of State to suspend or cancel permission to sell securities.</p> <p>§ 25. Documents filed in office of Secretary of State open to inspection of the public.</p> <p>§ 26. Fees—see also section 7.</p> <p>§ 27. Oaths to be administered by an officer of and in the State of Illinois.</p> <p>§ 28. Additional copies of statements to be submitted on request of the Secretary of State.</p> <p>§ 29. Broker, etc. offering to sell securities without compliance with Act guilty of a misdemeanor—penalty.</p> <p>§ 30. Issuer offering to sell securities without compliance with Act guilty of a misdemeanor—penalty.</p> <p>§ 31. Person or corporation violating Act guilty of a misdemeanor—penalty.</p> |
|--|---|



THE ILLINOIS SECURITIES LAW—Continued.

- | | |
|---|--|
| <p>§ 32. False statements made by broker, etc. not authorized by issuer guilty of a misdemeanor—penalty.</p> <p>§ 33. Signing any statement, etc. knowing same to be false is prima facie evidence of knowledge of falsity—perjury—penalty.</p> <p>§ 34. Sale of securities with knowledge of the insolvency of the issuer makes party selling same guilty of embezzlement—penalty.</p> <p>§ 35. Any person interested may maintain action to recover money in excess of 20% not paid to issuer.</p> <p>§ 36. Sale contrary to information filed, or on other terms is prima facie evidence of fraud.</p> <p>§ 37. Sales contrary to Act void—liability to the purchaser for the amount paid with reasonable attorney's fees in law or equity. Burden of proof to establish exemption rests upon issuer or seller in all civil and criminal actions—violations to be referred to proper officers for prosecution. Solicitors, agents, brokers, officers, directors and all per-</p> | <p>sons who shall sell or offer for sale securities or aid or assist therein deemed equally guilty and may be punished in county in which offer or sale was made or in county of delivery. Certificate of compliance or non-compliance with provisions by the Secretary of State shall constitute prima facie evidence and shall be admissible in evidence in any action at law or in equity.</p> <p>§ 38. Act does not relieve corporations from making reports as required to be made under other existing laws.</p> <p>§ 39. Foreign corporations desiring to sell securities must comply with the law regulating admission of such corporations.</p> <p>§ 40. Prosecutions under Act to be brought within five years.</p> <p>§ 41. Invalidity of one provision or section does not affect remainder of Act.</p> <p>§ 42. Acts repealed—certificate or evidence of compliance with law repealed not to be exhibited—contractual obligations not impaired.</p> <p>§ 43. Emergency.</p> |
|---|--|

(APPROVED AND IN FORCE JUNE 10, 1919, AS AMENDED BY ACT APPROVED JUNE 11, 1921.)

AN ACT relating to the sale or other disposition of securities and providing penalties for the violation thereof and to repeal Acts in conflict therewith.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly: This Act shall be known as "The Illinois Securities Law."*

§ 2. The words and phrases used herein shall, unless the context otherwise indicates, have the following meaning:

The word "securities" shall *mean and* include stock, *treasury stock*, bonds, debentures, *investment contracts*, notes, *evidences of indebtedness*, participation certificates, certificates of shares or interest, preorganization certificates and subscriptions, certificates evidencing shares of or interest in trust estates or associations, profit sharing *agreements or certificates*; or any certificate, contract or instrument whatsoever, representing or constituting evidence of, or secured by, title to or interest in, or any lien or charge upon, the capital or any property or assets of the Issuer thereof, and any oil, gas or mining lease, and interests, units or shares in any such lease or leases.

The word "issuer" shall include every person and every company, trust, partnership or association incorporated or unincorporated heretofore or hereafter formed which shall have issued or which shall here-

after issue any security sold or offered for sale to any person or persons in this State.

The word "file" or "filing" within the meaning of this Act, shall mean the endorsement thereof by the Secretary of State on any statement or document received of the word "filed" followed by the month, day, year, and name of Secretary of State, for the purpose of showing that, in his opinion, the issuer, solicitor, agent, broker, dealer or owner has complied with the provisions of this Act.

The term "sale" shall mean and include contracts and agreements whereby securities are sold, traded or exchanged for money, property or other thing of value, or any transfer or agreement to transfer, in trust or otherwise. Any security given or delivered with, or as a bonus on account of, any purchase of securities or other thing of value, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The term "sell" means any act by which a sale is made and the term "sale" or "offer for sale" shall include a subscription, an option of sale, a solicitation of sale, an attempt to sell, or an offer to sell, directly or by an agent, by a circular, letter or advertising, or otherwise; provided, however, that nothing herein shall limit or diminish the full meaning of the terms "sale," "sell" or "offer for sale" as used by or accepted in courts of law or equity. (As amended by Act approved June 11, 1921.

§ 3. For the purposes of this Act securities are divided into four classes, as follows:

(1) Securities, the inherent qualities of which assure their sale and disposition without the perpetration of fraud, which shall be known as securities in Class "A";

(2) Securities, the inherent qualities of which, or in the nature of one or both parties to the sale thereof, assure their sale and disposition without the perpetration of fraud, which shall be known as securities in Class "B";

(3) Securities based on established income, which shall be known as securities in Class "C";

(4) Securities based on prospective income, which shall be known as securities in Class "D".

§ 4. Securities in Class "A" shall comprise securities:

(1) Issued or guaranteed by a government or governmental agency, or by any body having power of taxation or assessment;

(2) Issued by any National or State bank or trust company, building and loan association of this State, or insurance company organized or under the supervision of the Department of Trade and Commerce of this State;

(3) Issued or guaranteed by any corporation operating any public utility in the United States or any state thereof or in the Dominion of Canada or any province thereof wherein there is or was at the time of issuance thereof in effect any law regulating such utilities and the issue of securities by such corporation, and evidences of indebtedness secured by collateral consisting of any securities herein above in this paragraph three (3) described, provided that such collateral securities

equal in par value 125% of the par value of the evidences of indebtedness so secured;

(4) *Listed and dealt in* on the New York, Boston or Chicago Stock Exchange, respectively, pursuant to official authorization by such exchanges, respectively, and securities senior to any securities so listed and dealt in, or guaranteed by any corporation, the common capital stock of which is so listed and dealt in;

(5) *Issued and outstanding in the hands of the public prior to June 10, 1919, of corporations whose business has been continuously in operation since that date, provided, that financial statements of the issuing corporation appeared in any standard manual of securities for the year 1920, approved by the Secretary of State, or provided that quotations of such securities have appeared in tabulated market reports published as news items, and not as advertising, in a daily newspaper of general circulation published in the English language, in any city of two hundred thousand inhabitants or over in the State of Illinois, at least twelve times in each of the years 1919 and 1920, respectively, and at least twelve times during the twelve calendar months next preceding the offering for sale thereof;*

(6) *Issued by any corporation organized not for pecuniary profit or organized exclusively for educational, benevolent, fraternal, charitable or reformatory purposes;*

(7) *Being notes or bonds secured by a mortgage lien upon real estate or leasehold (other than oil, gas and mining leases) in any state or territory of the United States or in the Dominion of Canada: (a) when the mortgage is a first mortgage on real estate and when the aggregate face value of such notes or bonds (but not including interest notes or coupons) secured thereby does not exceed the fair market cash value of such real estate; (b) when the aggregate face value of the notes or bonds (but not including interest notes or coupons) secured by a first mortgage lien upon real estate and buildings, in good faith, forthwith to be erected thereon, according to the terms of the mortgage, does not exceed the fair market cash value of such real estate and buildings and each of such notes or bonds secured thereby (but not including interest notes or coupons) bears across the face and text thereof a legend, in red letters not less than one-half inch in height stating that the note or bond is a construction note or bond; (c) when the mortgage lien is a junior mortgage upon real estate, or is on a leasehold (other than oil, gas and mining leases) and the aggregate face value of such mortgage and notes or bonds secured thereby, together with all other existing prior and / or concurrent liens of equal or superior rank, (but not including interest notes or coupons) does not exceed the fair market cash value of such real estate or leasehold, provided, that in case of a junior mortgage lien on real estate or a mortgage lien on a leasehold the mortgage and notes or bonds secured thereby (but not including interest notes or coupons) shall each bear across the face and text thereof a legend in red letters not less than one-half inch in height, stating (1) that the mortgage is a junior mortgage, if that be the case, and (2) that the mortgage is on a leasehold, if that be the case;*

(8) Being a note secured by first mortgage upon tangible or physical property, when such mortgage is assigned with such securities to the purchaser;

(9) Evidencing indebtedness due under any contract made in pursuance to the provisions of any statute of any state of the United States providing for the acquisition of personal property under conditional sale contract;

(10) Being negotiable promissory notes given for full value and for the sole purpose of evidencing or extending the time of payment of the price of goods, wares or merchandise purchased by the issuer of such notes in the ordinary course of business, and commercial paper or other evidence of indebtedness running not more than twelve months from the date of issue;

(11) Being subscriptions for *or sales of shares of* the capital stock of a *corporation prior to the incorporation thereof* under the laws of *the State of Illinois, when no expense is incurred, or no commission, compensation or remuneration is paid or given for or in connection with* the sale or disposition of such securities;

(12) *Bonds or notes secured by lien on vessels shown by policies of marine insurance taken out in responsible companies to be of value, after deducting any or all other indebtedness secured by prior lien, of not less than 125% of the par amount of such bonds or notes;*

Securities in Class "A" and the sales thereof shall not be subject to the provisions of this Act. (As amended by Act approved June 11, 1921.

§ 5. Securities in Class "B", *being exempted sales*, shall include:

(1) *An isolated sale of any security by a bona fide owner thereof, or his representative, for the owner's account, such sale not being made in the course of repeated and successive transactions of a like character, and such owner not being a broker or dealer in securities or an underwriter of such securities;*

(2) Capital stock of a corporation *when sold or distributed by it among its stockholders without the payment of any commission or expenses to agents, solicitors or brokers, and without incurring any liability for any expenses whatsoever, in connection with the distribution thereof;*

(3) *Securities when sold by or to any bank, trust company or insurance company or association organized under the banking or insurance laws of this State or of the United States, or doing business in this State under the supervision of the Department of Trade and Commerce; or of the Auditor of Public Accounts; or by or to any building and loan association organized and doing business under the laws of this State, or any public sinking fund trustees;*

(4) *Securities when sold to any corporation, or any broker or dealer in securities;*

(5) *Securities when sold or offered for sale at any judicial, executor's or administrator's sale, or at any sale by a receiver or trustee in insolvency or bankruptcy, or at a public sale by auction held at an advertised time and place.*

Securities when disposed of by the persons and in the manner provided by this section, shall not be subject to the provisions of this Act in such transactions; provided, however, that such securities shall not be resold, except as is in this section provided, without compliance with the provisions of this Act. (As amended by Act approved June 11, 1921.

§ 6. Securities in Class "C" shall comprise the following:

Those issued by a person, corporation, firm, trust, partnership or association owning a property, business or industry which has been in continuous operation not less than two years and which has shown during a period of not less than two years prior to the filing of the statement herein provided for, average annual net profits, exclusive of all prior charges, as follows:

(1) In the case of interest bearing securities, not less than one and one-half times the annual interest charge thereon and upon all other outstanding interest bearing obligations of equal rank;

(2) In the case of preferred stock, not less than one and one-half times the annual dividend on such preferred stock and on all other outstanding stock of equal rank;

(3) In the case of common stock, not less than 3% per annum upon such common stock, (or in the case of common stock of no par value, upon the price at which the same is, or is to be, offered), and on all other outstanding common stock. (As amended by Act approved June 11, 1921.

§ 7. Securities in Class "C" may be disposed of, sold or offered for sale upon compliance with the following conditions, and not otherwise:

(a) A statement shall be filed in the office of the Secretary of State:

(1) Describing the evidences of indebtedness, preferred stock or common stock intended to be offered or sold;

(2) Stating the law under which and the time when the issuer was organized;

(3) Giving a detailed statement of the assets and liabilities of such issuer and income or profit and loss statement, and giving an analysis of surplus account;

(4) Giving the names and addresses of its principal officers and of its directors or trustees;

(5) Giving pertinent facts, data, and information establishing that the securities to be offered are securities in Class "C".

Such statement shall be verified by the oath of not less than two credible persons having knowledge of the facts. Not less than twenty-five copies of such statement, wholly printed or wholly typewritten, shall at the time of filing the original statement be filed with the Secretary of State. The printed or typewritten copies so filed shall bear at the top in bold faced type the expression:

"Securities in Class 'C' under Illinois Securities Law," followed by the expression, also in bold faced type:

"This statement is prepared by parties interested in the sale of securities herein mentioned. Neither the State of Illinois, nor any

officer of the State, assumes any responsibility for any statement contained herein nor recommends any of the securities described below."

(b) *By and with the consent and approval in writing of the Secretary of State any security in Class "C" may be offered for sale or sold before the filing of the statement with respect thereto herein above in Paragraph (a) of this section seven (7) referred to, anything in this statute to the contrary notwithstanding such consent to be conditioned upon there being deposited in the office of the Secretary of State by the issuer or any party interested in the sale of such security:*

1. *A notice briefly describing the securities to be offered and stating the price at which such securities are to be offered to the public, the amount of the issue and the amount to be sold in Illinois;*

2. *The fee with respect to such securities prescribed in section 26 of this statute;*

3. *A copy of the circular to be used in selling or offering for sale such securities;*

4. *Such additional information as may be required by the Secretary of State; provided that within thirty days after the deposit of such documents, or within such further time as the Secretary of State may prescribe, there shall be filed in the office of the Secretary of State the statement with respect to such securities provided for in Paragraph (a) of this section seven (7); and further provided, that no issuer or other party shall offer, advertise or sell any such security prior to the filing by the Secretary of State of the statement herein above in Paragraph (a) prescribed unless such issuer or other party shall have on file in the office of the Secretary of State an irrevocable consent and power of attorney with respect to the sale of Class "C" securities as provided in section 16 of this Act; and shall also have on file in the office of the Secretary of State a good and sufficient bond in the sum of not less than \$50,000.00, payable to the People of the State of Illinois, for the protection, use and benefit of purchasers and of all persons in interest, executed by a surety or guaranty company authorized to do business in this State conditioned that in the event the statement with respect to any securities shall not be filed, as above provided, the obligor in such bond will repay to any purchaser from such obligor, on demand and tender of such securities, the purchase price paid therefor. (As amended by Act approved June 11, 1921.*

§ 8. *All securities other than those falling within Class "A", "B", and "C", respectively, shall be known as securities in Class "D".*

§ 9. *No security in Class "D", shall be sold or offered for sale until there shall have been filed in the office of the Secretary of State, statements and documents as follows:*

(1) *A description and amount of the securities intended to be offered for sale;*

(2) *If the issuer is a corporation, a certified copy of the charter or articles of incorporation and by-laws;*

(3) *If the issuer is a firm, trust, partnership or unincorporated association, a copy of the articles of partnership, association or trust agreement;*

(4) The names, addresses and prior occupations during a period of not less than ten (10) years prior to filing such statement (giving details as to time, place and address of employer and reasons for discontinuance of employment) of the officers, directors or trustees of the issuer, if it be a corporation, or of the persons composing the issuer, if the issuer be a non-incorporated association;

(5) A description of the nature of the industry engaged in or intended to be engaged in and the approximate time when such industry was or will be established;

(6) An inventory showing the assets of the issuer;

(7) An appraisement of the assets of the issuer;

(8) A statement in detail of the gross income of the issuer and the source or sources thereof and of its operating and other expenses for a period of twelve (12) months prior to the date of filing such statement, or for the period of the existence of the issuer if less than two years prior to the date of filing;

(9) A copy of the most recent balance sheet of the issuer, showing the financial condition of the issuer at a date not more than thirty (30) days prior to the date of filing, and giving an analysis of surplus account from inception of such issuer;

(10) A copy of the mortgage, trust deed, indenture or writing securing the securities, [or] whereunder the same are issued, if any such instrument there be;

(11) A copy of the form of the securities intended to be offered;

(12) A copy of any and all subscription blanks to be used in the sale thereof, which subscription blanks shall have printed thereon, "These are speculative securities".

(13) A statement as to the manner in which the securities are to be offered and sold;

(14) If the securities be intended to be offered and sold by the issuer through solicitors, agents or brokers, an irrevocable contract executed by each such solicitor, agent or broker authorized to offer or sell such securities by or on behalf of the issuer to the effect that the issuer will receive in cash not less than 80% of the proceeds of each sale of the securities without deduction for any commission or expenses, directly or indirectly, and without liability to pay any sum whatsoever as commission or expenses or for services in and about such sale;

If the securities shall have been or be intended to be sold to any dealer, solicitor, agent or broker and intended to be by such dealer, solicitor, agent or broker sold to the public for their own account, a statement verified under oath, establishing that the price paid to the issuer was or will be without any fixed or contingent right in the issuer to demand or receive any additional sum on account of such securities or the sale thereof;

(15) A summary of the material facts disclosed by the preceding statements;

(16) Such other facts relative to such securities as the Secretary of State shall prescribe.

Such statements and documents shall, except as otherwise provided herein be verified by the oath of not less than two of the officers of the issuer, if the issuer be a corporation, or by not less than two members of a firm, trust, partnership or association, if the issuer be non-incorporated.

The Secretary of State may require further and additional verification under the oaths of other persons.

§ 10. With the statement required to be filed in the office of the Secretary of State with reference to securities in Class "D", there shall also be filed an inventory, in such detail as the Secretary of State shall require; showing the assets of the issuer as of a date not more than thirty (30) days prior to the date of filing thereof. Such inventory shall be accompanied by an appraisement made by a *disinterested* qualified person or persons *who may be selected by the Secretary of State*, showing the value of the assets described in such inventory. The person or persons making such appraisement shall state in such appraisement the character and nature of their experience and their qualifications to value such property and all the facts or considerations on the basis of which their estimate of values is predicated.

Such appraisement shall be verified by the oath of the person or persons making the same. (As amended by Act approved June 11, 1921.

§ 11. At any time, either before or after the filing of any statement required by this Act to be filed with reference to securities in Class "C" or Class "D" the Secretary of State may designate a certified public accountant to make an examination of the books, records, papers and documents, of the issuer and make a report of the examination thereof to the Secretary of State. The Secretary of State shall fix the compensation of such certified public accountant in advance and shall notify the issuer thereof of the amount so fixed, which compensation shall be paid by the issuer to such certified public accountant as his compensation for making such examination.

The Secretary of State may secure information from or through others and may make or cause to be made investigations respecting the business, affairs and property of the issuer, and in financing by the sale of securities in Class "D", the Secretary of State in his discretion may require that the capital to be obtained by such sales, be held intact until the completion of the sale of securities, or so much or such portion of the issue to be sold as may in the opinion of the Secretary of State prevent loss of such capital or fraud upon the purchasers of such securities, and for such purpose take bond to the People of the State of Illinois for the use and benefit of such purchasers with sufficient sureties, or may accept other safeguards in lieu thereof; and may require financial statements and reports of the issuer so often as circumstances appear to warrant. (As amended by Act approved June 11, 1921.

§ 12. If the statement as to securities in Class "D" shall disclose that any of such securities shall have been or shall be intended to be issued for any patent right, copyright, trade-mark, process or good will, or for promotion fees or expenses, or for other intangible assets,

the amount and nature thereof, shall be fully set forth, and securities issued in payment of such patent right, copyright, trade-mark, process or good will, or for promotion fees or expenses, or for other intangible assets, shall be delivered in escrow to such bank or trust company as shall be designated by the Secretary of State under an escrow agreement that the owners of such securities shall in case of dissolution or insolvency not participate in the assets of the corporation until after the owners of all other securities have been paid in full. Such escrow agreement shall remain in full force until the securities of the issuer thereof are qualified under Class "C" hereof.

§ 13. If the statement as to securities in Class "D" discloses that such securities are intended to be offered or sold by the issuer, through a solicitor, agent or broker, a statement giving the names, residences, qualifications, occupations and business experience of such solicitor, agent or broker for a period of ten years prior to the filing, and the name and address of each employer, the period of employment and reason for resignation or discharge, shall be filed in the office of the Secretary of State. The signatures of each and every of such solicitors, agents or brokers, shall be attached to such statement. If after the filing of such statement the issuer shall appoint any additional solicitor, agent or broker to offer or sell such securities before any such additional solicitor, agent or broker, shall offer or sell any such securities, there shall be filed like statements.

§ 14. After qualification of securities in Class "D" by the issuer, any dealer or owner may sell such securities upon filing in the office of the Secretary of State, a statement verified by the oath of such dealer or owner as otherwise provided by this Act, a statement of the amount and description of the securities to be sold by him or it, the maximum price for which they are to be sold, his or its address by street and number, qualification, occupation, and business experience of such dealer or owner for a period of ten years prior to filing such statement, giving name and address of each employer, the period of employment and the reason for resignation or discharge.

§ 15. Not less than 25 printed or typewritten copies of the summary of the statement required to be filled with reference to securities in Class "D" shall be deposited in the office of the Secretary of State. The printed or typewritten copies so deposited shall bear at the top in bold face type the expression:

"Securities in Class 'D' under Illinois Securities Law: These are speculative securities," followed by the expression, also in bold face type:

"This statement is prepared by parties interested in the sale of securities herein mentioned. Neither the State of Illinois nor any officer of the State assumes any responsibility for any statement contained herein nor recommends any of the securities described below."

§ 16. Before any securities in Classes "C" or "D" shall be sold or offered for sale the issuer or person intending to sell or offer for sale such securities shall file in the office of the Secretary of State a written irrevocable consent and power-of-attorney, that suits at law or in equity arising out of or founded upon the sale or offering for sale

of any of such securities may be commenced against the corporation or person executing such power-of-attorney in any court of competent jurisdiction within this State, in any county in which the plaintiff or complainant resides, or in which the cause of action may have arisen, by the service of process upon the Secretary of State, and therein agreeing and stipulating that such service of process upon the Secretary of State shall be taken and held in all courts to be as valid and binding, as if due service had been made upon the corporation or person executing such power-of-attorney, according to the law of this State. Such instrument if the owner be a corporation, shall be signed by its chief executive and chief recording officer under its corporate seal, if it have [has] one, pursuant to a resolution of its governing body, a certified copy of which resolution shall be attached to such irrevocable consent and power-of-attorney; or if a person or a non-incorporated association then signed and acknowledged by such person or by all the members of such non-incorporated association. Whenever any process is served upon the Secretary of State, he shall at once forward a copy of the same by registered mail to the defendant at his or its last address of record in the office of the Secretary of State.

§ 17. Before filing any statement or document with reference to securities in Class "C" or Class "D" the Secretary of State shall within a reasonable time examine the same and, if the same is incomplete, inadequate, evasive or otherwise not in conformity with the provisions of this Act, or if the sale or offering for sale of securities based upon the plan or scheme evidenced by the statements and documents offered to be filed, would in the opinion of the Secretary of State work or tend to work a fraud upon the purchaser of such securities the Secretary of State shall refuse to file the same. Otherwise such statements or documents shall be filed by the Secretary of State. Upon the filing of such statements or documents by the Secretary of State, the issuer, solicitor, agent, broker, dealer or owner may proceed to sell the amount of securities proposed to be sold or disposed of in this State, but no written or printed evidence of the compliance with this Act shall be issued by the Secretary of State. The Secretary of State may, either before or after such statements and documents are filed, propound interrogatories to the persons filing, or offering to file, such statements or documents, respecting any facts required to be stated with reference to such securities. Such interrogatories shall be answered under oath. If such interrogatories relate to a statement or document offered to be filed, such statement or document shall not be filed until such interrogatories are answered, and not then unless such statement and document and the answers to such interrogatories disclose conformity with this Act. If such interrogatories relate to a statement or document already filed, such interrogatories shall be answered within twenty days or within such further time as the Secretary of State shall prescribe. If not answered within twenty days or within any extension thereof, the sale or offering for sale of the securities covered by the statement or document to which the interrogatories relate, shall be unlawful.

§ 18. Whenever the Secretary of State refuses to file any statement or document presented under the provisions of this Act, the person presenting such statement or documents for filing may within thirty days thereafter, file a petition in the Circuit Court of Sangamon County, against the Secretary of State, officially as defendant, *to review his action in refusing to file such statement or document*, alleging therein, under oath, in brief detail, the right of *the petitioner* to sell securities in this State, and praying that the Secretary of State be required to file in his office such statement or document.

If, upon a hearing, the court shall find upon consideration of the statement or document and other pertinent evidence that the sale or offering for sale of securities upon the basis, plan or scheme evidenced therein and thereby will not work or tend to work a fraud upon the purchaser or purchasers of such securities, and shall further find that the Secretary of State wrongfully concluded that the sale or offering for sale of such securities would work or tend to work a fraud upon purchasers thereof, and that the petitioner is entitled to the benefits of and has complied with the provisions of this Act, the court may order such statement or document filed.

Either party to such suit shall have the right to prosecute an appeal from the order or judgment of the court. Judgment against the petitioner shall not bar his right to file a new statement or document under the provisions of this Act, nor shall judgment in favor of the petitioner prevent the Secretary of State from thereafter applying for an injunction, or otherwise proceeding, as is provided in this Act. Merely technical irregularities in the procedure of the Secretary of State shall be disregarded and the burden of proof on all questions in controversy shall rest upon the petitioner. (As amended by Act approved June 11, 1921.

§ 19. Every expression or statement made as an inducement to procure the filing of the information required by the provisions of this Act, either concerning Class "C" or Class "D" securities, shall be reduced to writing and verified under oath by the person making such expression or statement.

§ 20. So long as any security is sold or offered for sale under the provisions of this Act, such person, issuer, dealer, solicitor, agent or broker shall on or before the expiration of each six months' period, from the date of filing the original statements and documents, and oftener if required by the Secretary of State, file new or supplemental statements disclosing:

(1) The amount of securities sold, the sale price thereof and the amount of cash proceeds received therefor by the issuer;

(2) All changes in the financial conditions of the issuer or in its management or property, accompanied by a copy of the most recent balance sheet of the issuer showing the financial condition of the issuer at a date not more than 30 days prior to the date of such filing, and such other facts as the Secretary of State may require.

Such supplemental statement shall also be accompanied by not less than twenty-five wholly typewritten or printed copies of such sum-

mary of such supplemental statement, which summary shall be filed in the office of the Secretary of State.

Such supplemental statement shall be verified in the same manner as the original statement.

§ 21. Each financial statement, prospectus, advertisement, circular and document circulated, published or distributed for the purpose of effecting sales of securities in Class "D" shall contain the words, in bold faced type, "Securities in Class 'D' under Illinois Securities Law. These are speculative securities." But it shall be unlawful to make any other reference in any such matter to the fact that the issuer, solicitor, agent or broker has complied with the provisions of this Act. All such matter shall also contain a statement of the assets, liabilities, income and expenses of the issuer, the law under which the issuer was incorporated or organized, and the names and addresses of all officers, directors or trustees, of the issuer or of the owner of the property constituting the basis of the issue of such securities. A copy of each such financial statement, prospectus, advertisement, circular and document so circulated, published or distributed shall be filed in the office of the Secretary of State within ten (10) days after the first circulation, publication or distribution thereof. It shall be unlawful to print, publish, circulate or distribute such matter showing the earnings of other companies or corporations engaged in a similar business.

It shall be unlawful for any issuer, solicitor, agent or broker in any advertisement intended to promote the sale of securities in Class "C" to make any reference whatsoever to the fact that such issuer, solicitor, agent or broker has complied with the provisions of this Act.

§ 22. The Secretary of State shall, upon request therefor, mail or deliver to any person a copy of the summary of the statements or supplemental statements required to be deposited in his office.

§ 23. The Secretary of State may prescribe and furnish forms for all statements and documents and summaries required by this Act to be filed in his office and such statements, documents and summaries shall follow substantially the forms so prescribed.

§ 24. (1) In case any statement or document *submitted or* filed in the office of the Secretary of State shall, in the judgment of the Secretary of State, in any material part thereof be inadequate, insufficient or not in compliance with this Act, or in case the *basis*, plan or scheme disclosed by such statements or documents, *adopted or* filed, would, in the judgment of the Secretary of State, work or tend to work a fraud upon *purchases*, or if it shall be made to appear to the Secretary of State, by complaint, *through investigation* or otherwise, that the statements and documents filed with respect to any securities are false *or deceptive* in any material particular, or if it shall be made to appear to the Secretary of State that *insolvency exists or that* conditions with respect to any such securities have so changed that the further sale or offering for sale thereof would *work or tend to work* a fraud on *purchasers thereof*, or that any of the terms and provisions of this Act, *have not been* complied with, or if it shall appear to the Secretary of State by complaint, upon investigation or otherwise, that any securities have been sold or are being offered for sale without compliance with, or in violation of any of the provisions of this Act, the Secretary of State

shall, in the name of the People of the State of Illinois, through the Attorney General, apply for an injunction in any court of competent jurisdiction to restrain the further sale or offering for sale of such securities; and the court shall have power to restrain the sale or offering for sale of such securities upon such application and may grant injunctions to enforce the provisions of this Act, in addition to the penalties and other remedies in this Act provided; the petitioner shall not be required to give bond in such proceedings and either party to such suit shall have the right to prosecute an appeal from the order or judgment of the court.

(2) The Secretary of State shall also have the power at any time, after five days notice to the seller of securities, when insolvency exists or when in the opinion of the Secretary of State the further sale of such securities would work or tend to work a fraud upon purchasers thereof, to suspend or cancel permission to sell such securities in this State, and thereafter the sale or offer for sale of such securities shall be unlawful, and may rescind such action when it shall be made to appear that further sales of such securities will not work or tend to work fraud upon purchasers, the order suspending or cancelling such authority to sell securities and any rescission thereof shall be reduced to writing and signed by the Secretary of State; any issuer, corporation or person aggrieved or interested in any such suspension or cancellation order aforesaid shall have the right to have the action and decision of the Secretary of State reviewed by the Circuit Court of Sangamon County, the procedure and rights under this paragraph two (2) of this section shall be governed by the provisions of section 18 of this Act in so far as such provisions may be applied.

(3) In no case shall the Secretary of State incur any official or personal liability by instituting injunction or other proceedings, or by the suspension or cancellation of the right or authority to sell securities. (As amended by Act approved June 11, 1921.

§ 25. All statements and documents and all other matters filed in the office of the Secretary of State under the provisions of this Act shall at all proper hours be available for public inspection.

§ 26. Before filing any statements required to be filed hereunder with reference to securities in Class "C" or in Class "D" the person so filing such statements shall pay in advance to the Secretary of State a fee of one-twentieth of one per cent of the amount of the securities to be offered for sale in this State, but in no case shall the fee be less than twenty-five dollars (\$25.00) or more than three hundred dollars (\$300.00).

§ 27. All oaths required by this Act relating to securities in Class "D" shall be taken before an officer of this State, authorized to administer oaths therein.

§ 28. Whenever in this Act copies of statements or other documents are required to be furnished to the Secretary of State for distribution, additional copies as requested by the Secretary of State, shall be supplied by the parties filing the original copies or by parties interested in the disposition of such securities.

§ 29. Any solicitor, agent or broker, selling or offering to sell any securities in Class "D" without compliance with the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00), and not more than five thousand dollars (\$5,000.00) for the first offense and not less than one thousand dollars (\$1,000.00), nor more than ten thousand dollars (\$10,000.00) for the second or any subsequent offense, or by imprisonment in the county jail not more than one year or may be punished by both such fine and imprisonment, in the discretion of the court.

§ 30. Any issuer of securities or any officer, director, trustee or agent thereof, selling or offering to sell any securities in Class "D" without full compliance with the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding ten thousand dollars (\$10,000.00) for the first offense and not to exceed twenty-five thousand dollars (\$25,000.00) for the second or any subsequent offense, and the officer, director, trustee or agent thereof, or the issuer (if a natural person) may be punished by imprisonment in the county jail not exceeding one year or may be punished by both such fine and imprisonment, in the discretion of the court.

§ 31. Any person or corporation, whether acting on his or its own behalf or on behalf of another violating any of the provisions of this Act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense and not less than five hundred dollars (\$500.00), nor more than one thousand dollars (\$1,000.00) for the second or any subsequent offense, or imprisonment in the county jail for not more than six months for the first offense nor more than one year for the second or any subsequent offense, or shall be subject to both such fine and imprisonment, in the discretion of the court.

§ 32. Any dealer, agent, solicitor or broker, who shall make any statement or representation not authorized by the issuer, or any statement or representation at variance with, or not reasonably predicated upon the statements and documents filed by the issuer in the office of the Secretary of State, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not to exceed one thousand dollars (\$1,000.00) for the first offense, and not to exceed five thousand dollars (\$5,000.00) for the second or any subsequent offense, or imprisoned in the county jail not more than six months for the first offense, nor more than one year for the second or any subsequent offense, or shall be subject to both such fine and imprisonment, in the discretion of the court.

§ 33. Any person signing any statement, list, inventory, balance sheet or other paper or document required by any provision of this Act to be verified or sworn to, knowing any representation therein contained to be false or untrue (and the depositing of any such statement or document in the office of the Secretary of State shall be deemed *prima facie* evidence of knowledge of the falsity thereof or of any repre-

sentation therein contained, and of the wilful signing of such statement or document), shall be deemed guilty of perjury and shall be subject to the penalties by the law of this State prescribed therefor.

§ 34. It shall be unlawful for any officer, director, trustee, solicitor, agent or broker of or for any issuer, knowing such issuer to be insolvent, to sell any securities issued by such issuer; and any such officer, director, trustee, solicitor, agent or broker who shall make any sale of any securities of and for any such issuer, and by reason of such insolvency of such issuer, the price paid for such securities or any part thereof shall be lost to the purchaser, shall be deemed guilty of embezzlement and upon conviction thereof shall be fined in a sum not less than one thousand dollars (\$1,000.00) nor more than ten thousand dollars (\$10,000.00) or may be imprisoned in the State penitentiary for not less than one year nor more than five years, or may be both fined and imprisoned, in the discretion of the court. For the purpose of this section, an issuer shall be deemed insolvent whenever the aggregate of its property shall not, at a fair valuation, be sufficient in amount to pay its debts.

§ 35. Any person interested in securities in Class "D" may maintain in the name of the issuer an action at law or suit in chancery for the use of the issuer, against the solicitor, agent or broker of such issuer, jointly or severally, to recover of such solicitor, agent or broker all moneys in excess of 20% of the proceeds of the sales of securities made by such solicitor, agent or broker and not turned into the treasury of the issuer.

§ 36. It shall be unlawful for any officer, director, solicitor, broker or agent, to sell or offer for sale any securities in Class "D", in any other manner or form than specifically set forth in the information required to be filed in section 9 of this Act, and any offer or sale upon any other terms or conditions other than set forth, shall be considered *prima facie* evidence that such officer, director, trustee, solicitor or agent offered or sold same for the purpose of defrauding the investor to whom such security was offered or sold.

§ 37. (1) Every sale and contract of sale made in violation of any of the provisions of this Act shall be void *at the election of the purchaser*, and the seller of the securities so sold, *the officers and directors of the seller*, and each and every solicitor, agent or broker of or for such seller, who shall have knowingly performed any act or in any way furthered such sale, shall be jointly and severally liable, *in an action at law or in equity*, upon tender to the seller or in court of the securities sold, to the purchaser for the amount paid, *the consideration given or the value thereof*, together with his reasonable attorney's fees in any action brought *for such recovery*.

(2) *In any action, civil or criminal, where the seller or issuer relies for his defense upon any of the exemptions provided for in this Act, the burden of proof to establish such exemption, shall be upon such issuer or seller.*

(3) *The Secretary of State shall have the power to make such investigations under this Act as he may deem proper and expedient, and to refer any complaint, together with information relative thereto,*

to the proper officers of the county in which any violation may have occurred.

(4) For the purposes of this Act all persons, solicitors, agents, brokers, officers and directors of the seller, who shall sell or offer for sale securities in violation of the provisions of this Act, or who shall in any manner authorize, aid or assist in any unlawful sale or offering for sale, shall be deemed equally guilty, and may be tried and punished in the county in which said unlawful sale or offering for sale was made, or in the county in which the securities so sold or offered for sale, were delivered or proposed to be delivered to the purchaser thereof.

(5) In any prosecution, action, suit or proceeding before any of the several courts of this State based upon or arising out of or under the provisions of this Act, a certificate under the seal of State, duly signed by the Secretary of State, showing compliance or non-compliance with the provisions of the Illinois Securities Law, respecting the securities in question or respecting compliance or non-compliance with the provisions of the Act by any issuer, solicitor, agent, broker, dealer or owner, shall constitute prima facie evidence of such compliance or of such non-compliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act. (As amended by Act approved June 11, 1921.

§ 38. Nothing in this Act shall be construed to relieve corporations from making reports now or hereafter required by law to be made to the Secretary of State or paying the fees now or hereafter to be paid by corporations. This Act shall not be construed to repeal any law now in force regulating the organization of corporations in this State or the admission of any foreign corporation, but the provisions of this Act shall be construed to be additional to any provision regulating the organization of a corporation under the laws of Illinois or the admission of a foreign corporation to do business in this State.

§ 39. If the issuer of any securities be a foreign corporation, and such issuer shall desire to make sales of such securities under the provisions of this Act, no statement or document relating to such sales shall be filed in the office of the Secretary of State until such foreign corporation has complied with the law regulating the admission of foreign corporations to transact business in this State.

§ 40. No prosecution for violation of any provision of this Act shall bar or be barred by any prosecution for the violation of any other provisions of this Act or of any other statute; but all prosecutions and all civil actions to recover money or for other purposes under this Act or based upon any provision of this Act must be commenced within five years after the commission of the act complained of.

§ 41. The invalidity of any section or provision of this Act shall not affect the remainder thereof.

§ 42. An Act entitled, "An Act to prevent fraud in the sale and disposition of stocks, bonds or other securities sold or offered for sale within the State of Illinois, by any dealer, firm, company, association or corporation, foreign or domestic, by requiring an inspection of such

stocks, bonds, or other securities and an inspection of the business of such persons, firms, companies, associations or corporations, including dealers and agents, and such regulation and supervision of the business of said persons, firms, companies, associations or corporations, including dealers and agents, as may be necessary to prevent fraud in the sale within the State, of any stocks, bonds or other securities, and providing penalties for the violation thereof," filed June 29, 1917, in effect January 1, 1918, is hereby repealed, and all other Acts and parts of Acts insofar as they conflict with this Act are hereby repealed.

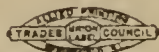
It shall hereafter be unlawful for any person or corporation to exhibit or in any wise make use of any certificate issued by the Secretary of State under any of the provisions of the Act hereby repealed for the purpose of making or in endeavoring to make any sale of securities.

This repeal shall not affect any contract rights which have arisen under the law hereby repealed, or under the administration thereof, nor invalidate any deposits in escrow or contracts entered into by the issuer of securities for the benefit or security of any person. The Secretary of State shall in all such cases proceed in all respects touching such contracts and escrows as if such law had not been repealed.

§ 43. Whereas, an emergency exists, therefore this Act shall be in force and effect from and after its passage and approval.

APPROVED June 10, 1919.

Compiled by
LOUIS L. EMMERSON,
Secretary of State.



ILLINOIS STATE JOURNAL CO.
SPRINGFIELD, ILLINOIS
1922

76430—10M

UNIVERSITY OF ILLINOIS-URBANA



3 0112 120240301